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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,643	03/08/2004	Percival C. Banks	Banks 0401	2231
7590 H. Michael Brucker Suite 110 5855 Doyle Street Emeryville, CA 94608		04/04/2007	EXAMINER YOO, REGINA M	
			ART UNIT 1744	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/04/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/796,643

Applicant(s)

BANKS, PERCIVAL C.

Examiner

Regina Yoo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - page 5, line 10, the "lid 23" is incorrectly referred to. The reference number for the lid is 22; and
 - page 5, line 11, the "vent 11" is incorrectly referred to. The reference number for the vent is 23.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 9 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Within the claim limitation that "said vent recess disposed between said vent recess and filter cover", the first recited "said vent recess" cannot be disposed between itself and the filter cover. For examination purposes, Claim 9 is interpreted to read "a sheet filter covering the vent and said sheet filter disposed between said vent recess and said filter cover" as indicated in Figure 5 of the applicant's drawing.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (WO 99/27969) the English equivalent, U.S. Patent No. 6620390).

As to Claims 1 and 8, Wagner ('390) discloses a vent filter seal for a sterilization container (Figure 10) having a vent (29A in the wall 12A) through which sterilization media is introduced into the container (12A, 10) and a sheet filter (50A) inside the container (12A, 10) covering the vent (see Figures 6, 9 and 11) comprising:

a vent recess (recess into which 64 is fit into) in the container (the wall 12A which comprises the overall container with 10) surrounding the vent (see Figures 6, 9 and 10);

a gasket (64) disposed within said vent recess over which the sheet filter (50, 50A) is placed (see Figures 6, 9 and 10); and

a filter cover (62) surrounds the vent (Figures 6-10).

As to the limitation that the filter cover having a ridge sized to fit into said vent recess, while Wagner ('390) does not specifically disclose this configuration in illustrations of Figures 6-10, Wagner ('390) discloses that the "filter holder plate is fixed on the outer edge of the intermediate cover in any desired way, for example by clamping...[so that] no cavities remain upon deliberate dismantling (e.g. filter replacement or filter inspection)" (Col. 5, lines 10-15) which is deemed to incorporate the configuration of clamping the filter cover/holder plate through a ridge appropriately sized which can be forced into the vent recess to produce clamping effect, as this configuration is a well known closing mechanism (which is exemplified in Figures 1, 6 and 9-11 to effect closing of the sterilization container through the recess in cover 12 on 10 via a sealing ring 14), in order to provide a closing mechanism between the lid/cover (12A) and filter cover/holder plate (62).

As to Claim 2, Wagner ('390) discloses that the vent filter seal further comprises a ridge (bump/ridge formed on the exterior surface where the gasket 64 is located) on the exterior of the container surrounding the vent (see Figures 6 and 9-10).

As to Claim 3, Wagner ('390) discloses that the vent filter seal wherein the ridge is the opposite side of said vent recess (see where the gasket 64 is located in Figures 6 and 9-10).

As to Claim 4, Wagner ('390) discloses that the vent filter seal further comprises mechanical means locking said filter cover onto the container ("filter holder plate is fixed on the outer edge of the intermediate cover in any desired way, for example by clamping or screwing," Col. 5, lines 10-12) and the disclosure's examples of clamping or screwing requires use of a positive force to urge the two separate parts together to interface one another.

As to Claim 5, Wagner ('390) discloses that the vent filter seal wherein the filter cover (62) and the vent (12 A) are spaced apart (68, 68B) when said filter cover (62) is locked onto the cover (12A) (see Figures 6 and 10).

As to Claim 6, Wagner ('390) discloses that the vent filter seal wherein the vent is a pattern of holes (29A) through the container (12A) and the filter cover (62) further comprising a pattern of holes (66) through said cover (62) within the area defined by said filter cover ridge (see Figures 6-10, specifically Figures 7-8).

As to Claim 9, Wagner ('390) discloses a vent filter seal for a sterilization container (Figure 10) further comprising:

a sheet filter (50A) covering the vent (29A) and said sheet filter (50A) disposed between said vent recess and said filter cover (62) (see Figure 10);

means locking said filter cover (62) onto the wall of the container (12A) and urging said cover ridge into said vent recess against said gasket (64) with said sheet filter (50A) therebetween (Col. 5, lines 10-12; "filter holder plate is fixed on the outer edge of the intermediate cover in any desired way, for example by clamping or screwing" and such examples of clamping or screwing requires use of a positive force to urge the two separate parts together to interface one another).

As to Claim 10, Wagner ('390) discloses that the vent filter seal wherein the filter cover (62) and the vent (12 A) are spaced apart (68, 68B) when said filter cover (62) is locked onto the cover (12A) (see Figures 6 and 10).

As to Claim 11, Wagner ('390) discloses that the vent filter seal wherein the vent is a pattern of holes (29A) through the container wall (12A) and the filter cover (62) further comprises:

a pattern of holes (66) through said cover (62) within the area defined by said filter cover ridge (see Figures 6-10, specifically Figures 7-8).

Thus, Claims 1-6 and 8-11 would have been obvious within the meaning of 35 U.S.C. 103(a) in view of teachings of Wagner ('390).

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7. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (WO 99/27969) the English equivalent, U.S. Patent No. 6620390) in view of Frieze (WO 99/40948).

As to Claim 1, Wagner ('390) discloses a vent filter seal for a sterilization container (Figure 10) having a vent (29A) through which sterilization media is introduced into the container (12A, 10) and a sheet filter (50A) inside the container (12A, 10) covering the vent (see Figures 6, 9 and 11) comprising:

- a vent recess (recess into which 64 is fit into) in the container (12A) surrounding the vent (see Figures 6, 9 and 11);

- a gasket (64) disposed within said vent recess over which the sheet filter (50, 50A) is placed (see Figures 6, 9 and 10); and

- a filter cover (62) surrounds the vent.

As to the limitation that the filter cover possesses a ridge sized to fit into said vent recess, Wagner ('390) does not appear to specifically teach this limitation.

Frieze ('948) discloses a vent filter seal for a sterilization container (10) having a vent (18) through which sterilization media is introduced into the container (10) (page 3, lines 18-19) and a sheet filter (20) inside the container (10) covering the vent (18) comprising:

- a gasket (46, 48) over which the sheet filter (20) is placed (Figures 2A and 5A);

- and

a filter cover (30 or 32) having a ridge (38; page 8, lines 11-13) surrounds the vent (see Figures 1A and 1C).

The filter cover possess a ridge which surround the vent to provide an appropriately sized/shaped location to fit the gasket between the cover and the filter so that a good seal can be maintained in order to "prevent any steam, dust or other airborne particles or microorganisms from passing through the opening in the cover without passing through the filter" into the sterilization container (page 7, line 24 through page 8, lines 1-2).

It would have been obvious to one of ordinary skill in this art at the time of invention to provide a ridge on the filter cover in the filter cover of Wagner ('390) in order to prevent contamination of the sterilization container content by providing an appropriate closing mechanism between the filter cover, gasket, filter and the lid as shown by Frieze.

As to the limitation that the filter cover with a ridge is sized fit into the vent recess, neither Wagner ('390) nor Frieze ('948) teaches this specific limitation.

However, Wagner ('390) discloses that the "filter holder plate is fixed on the outer edge of the intermediate cover in any desired way, for example by clamping...[so that] no cavities remain upon deliberate dismantling (e.g. filter replacement or filter inspection)" (Col. 5, lines 10-15) which is deemed to incorporate the configuration of clamping the filter cover/holder plate through a ridge appropriately sized which can be forced into the vent recess to produce clamping effect, as this configuration is a well

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known closing mechanism (which is exemplified in Figures 1, 6 and 9-11 to effect closing of the sterilization container through the recess in cover 12 on 10 via a sealing ring 14), in order to provide a closing mechanism between the lid/cover (12A) and filter cover/holder plate (62).

It would have been obvious to one of ordinary skill in this art at the time of invention to provide the ridge in the filter cover (such as that of Frieze that is appropriately sized) to fit into the vent recess in the sterilization container of Wagner in order to provide a closure mechanism between the lid/cover and the filter holder/cover as well as for proper sealing within the vent filter seal assembly through provision of a properly shaped location for the gasket as shown by Frieze.

As to Claim 2, Wagner ('390) discloses that the vent filter seal further comprises a ridge (bump/ridge formed on the exterior surface where the gasket 64 is located) on the exterior of the container surrounding the vent (see Figures 6 and 9-10).

As to Claim 3, Wagner ('390) discloses that the vent filter seal wherein the ridge is the opposite side of said vent recess (see where the gasket 64 is located in Figures 6 and 9-10).

As to Claim 4, Wagner ('390) discloses that the vent filter seal further comprises mechanical means locking said filter cover onto the container ("filter holder plate is fixed on the outer edge of the intermediate cover in any desired way, for example by

clamping or screwing," Col. 5, lines 10-12) and the disclosure's examples of clamping or screwing requires use of a positive force to urge the two separate parts together to interface one another.

Frieze ('948) also discloses that the vent filter seal further comprises mechanical means (50, 58, 60, 62, 64; pages 9-10), locking said filter cover onto the container and urging said vent recess with a positive force (page 10, lines 3-6).

As to Claim 5, Wagner ('390) discloses that the vent filter seal wherein the filter cover (62) and the vent (12 A) are spaced apart (68, 68B) when said filter cover (62) is locked onto the cover (12A) (see Figures 6 and 10).

As to Claim 6, Wagner ('390) discloses that the vent filter seal wherein the vent is a pattern of holes (29A) through the container (12A) and the filter cover (62) further comprising a pattern of holes (66) through said cover (62) within the area defined by said filter cover ridge (see Figures 6-10, specifically Figures 7-8).

Frieze ('948) also discloses that the vent filter seal wherein the vent (114) is a pattern of holes (114a-114d) through the container (102) and the filter cover (128) further comprising a pattern of holes (128a-128e) through said cover (128) within the area (36) defined by said filter cover ridge (38) (see Figures 2A and 5A).

As to Claim 7, while Wagner ('390) discloses holes of the vent (29A) and holes (66) of the filter cover (62) are concentric according to the figures, Wagner fails to teach that the vent holes and the holes of the filter cover are offset relative to each other.

Frieze ('948) discloses that the vent filter seal wherein the holes (114a-114d) of the vent (114) and said holes (128a-128e) of said filter cover (128) are offset relative to each other in order to prevent sharp objects from entering the holes of the vent and exiting through the holes of filter cover (page 15, lines 1-5).

It would have been obvious to one of ordinary skill in this art at the time of invention to provide the offset configuration of vent holes with the filter cover holes in the vent filter seal assembly of Wagner in order to prevent damage to the sheet filter positioned between these two structures (vent and the filter cover) so that the content's sterility would not be compromised by filter puncturing as shown by Frieze.

As to Claim 8, Wagner ('390) discloses a vent filter seal for a sterilization container (Figure 10) having a wall (12A) containing a vent (29A) through which sterilization media is introduced into the container (10) and a sheet filter (50A) inside the container (10) covering the vent (see Figures 6, 9 and 11) comprising:

a vent recess (recess into which 64 is fit into) formed in the wall (12A) around the vent (29A) defining a ridge (see bump/ridge formed on the exterior surface where the gasket 64 is located, opposite the vent recess) outside the container (12A) (see Figures 6, 9 and 11);

a gasket (64) disposed within said vent recess over which the sheet filter (50, 50A) is placed (see Figures 6, 9 and 10); and
a filter cover (62) surrounds the vent.

As to the limitation that the filter cover possesses a ridge sized to fit into said vent recess, Wagner ('390) fails to specifically teach this limitation.

Frieze ('948) discloses a vent filter seal for a sterilization container (10) having a vent (18) through which sterilization media is introduced into the container (10) (page 3, lines 18-19) and a sheet filter (20) inside the container (10) covering the vent (18) comprising:

a gasket (46, 48) over which the sheet filter (20) is placed (Figures 2A and 5A);
and

a filter cover (30 or 32) having a ridge (38; page 8, lines 11-13) surrounds the vent (see Figures 1A and 1C).

The filter cover possess a ridge which surround the vent to provide an appropriately sized/shaped location to fit the gasket between the cover and the filter so that a good seal can be maintained in order to "prevent any steam, dust or other airborne particles or microorganisms from passing through the opening in the cover without passing through the filter" into the sterilization container (page 7, line 24 through page 8, lines 1-2).

It would have been obvious to one of ordinary skill in this art at the time of invention to provide a ridge on the filter cover in the filter cover of Wagner ('390) in order

to prevent contamination of the sterilization container content by providing an appropriate closing mechanism between the filter cover, gasket, filter and the lid as shown by Frieze.

As to the limitation that the filter cover with a ridge is sized to fit into the vent recess, neither Wagner ('390) nor Frieze ('948) teaches this specific limitation.

However, Wagner ('390) discloses that the "filter holder plate is fixed on the outer edge of the intermediate cover in any desired way, for example by clamping...[so that] no cavities remain upon deliberate dismantling (e.g. filter replacement or filter inspection)" (Col. 5, lines 10-15) which is deemed to incorporate the configuration of clamping the filter cover/holder plate through a ridge appropriately sized which can be forced into the vent recess to produce clamping effect, as this configuration is a well known closing mechanism (which is exemplified in Figures 1, 6 and 9-11 to effect closing of the sterilization container through the recess in cover 12 on 10 via a sealing ring 14), in order to provide a closing mechanism between the lid/cover (12A) and filter cover/holder plate (62).

It would have been obvious to one of ordinary skill in this art at the time of invention to provide the ridge in the filter cover (such as that of Frieze that is appropriately sized) to fit into the vent recess in the sterilization container of Wagner in order to provide a closure mechanism between the lid/cover and the filter holder/cover as well as for proper sealing within the vent filter seal assembly through provision of a properly shaped location for the gasket.

As to Claim 9, Wagner ('390) discloses a vent filter seal for a sterilization container (Figure 10) further comprising:

a sheet filter (50A) covering the vent (29A) and said sheet filter (50A) disposed between said vent recess and said filter cover (62) (see Figure 10);

means locking said filter cover (62) onto the wall of the container (12A) and urging said cover ridge into said vent recess against said gasket (64) with said sheet filter (50A) therebetween (Col. 5, lines 10-12; "filter holder plate is fixed on the outer edge of the intermediate cover in any desired way, for example by clamping or screwing" and such examples of clamping or screwing requires use of a positive force to urge the two separate parts together to interface one another).

Frieze ('948) also discloses that the vent filter seal further comprises mechanical means (50, 58, 60, 62, 64; pages 9-10), locking said filter cover onto the container and urging said vent recess with a positive force (page 10, lines 3-6).

As to Claim 10, Wagner ('390) discloses that the vent filter seal wherein the filter cover (62) and the vent (12 A) are spaced apart (68, 68B) when said filter cover (62) is locked onto the cover (12A) (see Figures 6 and 10).

As to Claim 11, Wagner ('390) discloses that the vent filter seal wherein the vent is a pattern of holes (29A) through the container wall (12A) and the filter cover (62) further comprises:

a pattern of holes (66) through said cover (62) within the area defined by said filter cover ridge (see Figures 6-10, specifically Figures 7-8).

Frieze ('948) also discloses that the vent filter seal wherein the vent (114) is a pattern of holes (114a-114d) through the container (102) and the filter cover (128) further comprises:

a pattern of holes (128a-128e) through said cover (128) within the area (36) defined by said filter cover ridge (38) (see Figures 2A and 5A).

As to Claim 12, while Wagner ('390) discloses holes of the vent (29A) and holes (66) of the filter cover (62) are concentric according to the figures, Wagner fails to teach that the vent holes and the holes of the filter cover are offset relative to each other.

Frieze ('948) discloses that the vent filter seal wherein the holes (114a-114d) of the vent (114) and said holes (128a-128e) of said filter cover (128) are offset relative to each other in order to prevent sharp objects from entering the holes of the vent and exiting through the holes of filter cover (page 15, lines 1-5).

It would have been obvious to one of ordinary skill in this art at the time of invention to provide the offset configuration of vent holes with the filter cover holes in the vent filter seal assembly of Wagner in order to prevent damage to the sheet filter

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positioned between these two structures (vent and the filter cover) so that the content's sterility would not be compromised by filter puncturing as shown by Frieze.

Thus, Claims 1-12 would have been obvious within the meaning of 35 U.S.C. 103(a) over the combined teachings of Wagner ('390) and Frieze ('948).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Yoo whose telephone number is 571-272-6690. The examiner can normally be reached on Monday-Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

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